Application number: 10/614,919

Applicant: Khai Hee Kwan

Title: System and method for conducting an electronic financial asset deposit auction over computer network.

Art Unit: 3692

Examiner: Chuks Onyezia, Esq.

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REMARKS

The applicant submitted an appeal brief dated 12.9.2008. The examiner by his reply dated 4.14.2009 (herein 'Reply') stated a NEW rejection based on 35 USC 101 for claims 1-6. (See page 2 and para 6 of Reply) (Note the examiner referred to appeal brief filed

5 10.9.2008 (see page 1 of Reply) which the applicant believed is a typo as there is NO such appeal brief filed on that date.)

In response to specific NEW rejection, the applicant submits that this is merely an afterthought. The examiner had at least the opportunities (on 2 occasions) to include this

10 NEW rejection (at final and after Pre-Appeal Brief with attendance of another 2 senior examiners) but failed to do so. In said rejection, the examiner reasoned that the claims 1-6 are not tied to another statutory class of invention nor physically transform underlying subject matter....(page 3 of Reply)

15 With respect to 'another class of invention', this is clearly an non-issue as the preamble of Claim 1 includes "said method operating on a host computer" and in the body of the said Claim 1 includes "trusted network" which are clearly material tied to another statutory class.

20 In the alternative and without admitting the correctness of the examiner's rejection, the applicant has amended claim 1 to read the host computer into the body (for clarity) that such a host is necessary for this method claim. The applicant has also amended said Claim 1 by including "said host server maximizes return on deposit for at least one depositor" in view of the second leg to show "physically transform underlying subject

25 matter". This element means, one depositor's deposit (through bidding/auction/depositing process as claimed) is maximized (from no return) to $Y return (physical transforming $X (deposit) to $X plus $Y) by host server. Moreover it is

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submitted, said element is not found in any of the cited prior arts in Reply and on this basis, Claim 1 and 7 be allowed. The precedent is found in specification at page 6 at line 17-21 – "It is another object of the present invention to provide a novel method, system, and computer program product to maximize the return based on the average of the returns

5   from all the bided sessions with the last depositor achieving the best return." Also in page 13 line 26-27 – "By doing so, this ensures being the last depositor in the auction and thus earning the highest return." Also page 31 at line 13-15 – "The net of this deposit auction shows that the 'loser' ie the depositor who has not win a session to have the highest return from his/her deposits."

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Similarly Claims 2, 4,6,7, 8, 10, 11, 12 are amended accordingly in view of Claim 1 to simplified any issues on appeal and for clarity and/or to place this application in allowance.

15   Be that as it may, in said Reply at page 5, the examiner maintained his previous rejection based on 35 USC 103 for claims 1-3,6,7-9,12,13-15 and 18-20. The applicant respectfully submits those rejections are misconceived and respond with the same as maintained in Appeal Brief dated 12.9.2008 from page 6 to 22 (herein incorporated by reference). For the above reasons, the applicant respectfully asks the examiner to

20   reconsider and give allowance to this application.

Yours truly,

K H KWAN
25   Customer Number 023336   13 MAY, 2009